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REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-20 are pending and stand rejected.

Claims 1 and 10 have been amended.

The specification has been objected-to for containing a typographical error.

Applicant thanks the Examiner for his observation and has requested an amendment to the paragraph containing the typographic error be entered.

Applicant has also further reviewed the specification and found an addition typographical error and respectfully requests that the amendment provided herein be entered.

Applicant believes that for the amendments made to the specification, the objection to the specification has been overcome and respectfully requests that the objection be withdrawn.

Claims 1-20 stand rejected under 35 USC §102(e) as allegedly being anticipated by Claseman (USP no. 7,177,325).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, independent claims 1 and 10 have been amended to more clearly recite that that the OAM data is transmitted prior to the MAC data based on the priority to the OAM data and the MAC data. No new matter has been added. Support for the amendment may be found at least in Figure 4.

Claseman discloses an OAM (Operation, Administration and Maintenance) system for packet data switched networks, wherin a network control point implements a protocol for assigning addresses to all ports of the network, discovers network topology and capabilities and initializes remote parameters. The OAM protocol maintains all physical transmission links through the communications of OAM frames with information concerning link errors and the status of ports and boxes. Claseman also discloses that the OAM protocol allows for deferral transmission of data frames by the OAM multiplexer to allow the OAM frames to be transmitted. The deferral method can

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use a well-known backoff time. In this case, the carrier sense (CS) signal can be used to defer the transmission of data frames either for insertion of OAM frames into the data stream or to compensate for rate differences between the physical layer and the MII. (see col. 7, lines 15-21).

Claseman fails to recite that assigning a priority to the data entities and determining transmission of the OAM data prior to MAC data based on the assigned priority.

A claim is anticipated only if a single reference sets forth each and every feature recited in the claim (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Claseman fails to anticipate the subject matter recited in claims 1 and 10, because Claseman fails to disclose the assignment of priority that is used to cause the transmission of OAM data prior to MAC client data.

For at least the above reasons, we would request withdrawal of the rejection of claim 1.

With regard to the remaining claims as being unpatentable under 35 U.S.C. §102 over Claseman, these claims depend from claims 1 and 10, respectively, and are also allowable by virtue of their dependency from an allowable base claim.

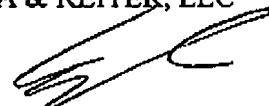
Applicant respectfully requests that the rejection of all the remaining dependent claims be withdrawn.

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For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references and respectfully requests that all the rejections be withdrawn. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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